IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

WP(C).No. 15639 of 2007(J)

OS.300/2004 of PRL.M.C., KOCHI
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PETITIONER:
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1. **V.UNNIKRISHNAN NAIR,**
   CONSTABLE NO.894653199, C.I.S.F. UNIT
   B.H.E.L., BANGLORE.

2. **M.K.JAYKUMAR, CONSTABLE NO.921403621,**
   C.I.S.F. UNIT K.I.O.C.L., KUDREMUKH,
   CHIKMANGLORE (DIST), KARNATAKA.

BY ADV. SRI.KODOTH SREEDHARAN

RESPONDENTS:
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1. **ANILKUMAR.P.A., S/O.PANKAJAN,**
   CONSTABLE P.NO.874330139, OFFICE OF THE D I G
   CISF UNIT NLC, NEYVALI, 29-BLOCK,
   KADALOOR DIST., TAMILNADU.

2. **THE CATHOLIC SYRIAN BANK LTD.,**
   REGD. OFFICE AT TRICHUR AND BRANCH AT
   THOPPUMPADY, KOCHI-5, REPRESENTED BY ITS
   BRANCH MANAGER.

3. **THE DEPUTY COMMANDANT,**
   CENTRAL INDUSTRIAL SECURITY FORCE,
   KIOCL, KUDREMUKH, CHIKMANGLORE (DIST),
   KARNATAKA.

4. **THE ASSISTANT COMMANDANT,**
   CISF UNIT BHEL, EDN, BANGLORE-26.

5. **THE D.I.G., C.I.S.F. UNIT,**
   N.L.C. NEYVELI, KADALOOR DIST,
   TAMILNADU.

**6. UNION OF INDIA, REP. BY ITS SECRETARY,
MINISTRY OF HOME AFFAIRS, NEW DELHI.**

BY C.G.C. P. PARAMESWARAN NAIR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.15639 OF 2007

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Dated this the 24th day of May, 2007

JUDGMENT

This writ petition is preferred by two sureties against whom the order of attachment of salary is ordered by the 4th respondent. The principal debtor, it is submitted, is having sufficient means to pay and the bank is not proceeding against him for realisation of the amount. I am conscious of the fact that Section 128 of the Contract Act specifically states that the liability of the surety is co-extensive with that of the principal debtor and therefore the decree holder is at liberty to proceed against the principal debtor or the sureties as it likes. But when the person who had borrowed the amount, is having means to pay and he is forcing to realise the amount from the sureties, the principles of natural justice, equity and good conscience always empower the court to give directions to realise the amount, if possible, from the principal debtor and then to proceed against the sureties.

Therefore the writ petition is disposed of as follows:(1) The realisation of the amount by way of attachment against the writ petitioners shall stand deferred for a period of 3 months.(2) The decree holder bank is

directed to take steps to find out whether it is possible to realise the amount from the principal debtor. In case of failure to recover amount from the principal debtor, certainly the bank is at liberty to realise the amount from the petitioners, as their liability is co-extensive with that of the principal debtor.

M.N.KRISHNAN, JUDGE

Cdp/-